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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,393	06/13/2001	Ronald A. Katz	6646-114N9	8506

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REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9220 SUNSET BOULEVARD
SUITE 810
LOS ANGELES, CA 90069

EXAMINER

WOO, STELLA L

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

09/881,393

Examiner

Stella L. Woo

Applicant(s)

KATZ, RONALD A.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on Dec 20, 2004 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: see attached sheets.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

- Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
- Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Response to Amendment

1. The reply filed on December 20, 2004 is not fully responsive to the prior Office Action because of the following omission or matter: Applicant's arguments do not address the non-final Office action mailed October 22, 2004. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

For Applicant's convenience, the rejections made in the Office Action mailed October 22, 2004 are repeated below:

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-23, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canadian Patent No. 1,162,336 (hereinafter "DeBruyn") in view of Szlam et al. (US 4,797,911, hereinafter "Szlam").

Regarding claims 22-23, 26, DeBruyn discloses a method comprising the steps of:

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receiving caller number identification signals (a caller's telephone number is received and recorded in memory; page 1, lines 26-28; page 3, lines 26-28; page 6, lines 24-26; page 9, lines 5-6);

cuing via a voice generator (telephone reply apparatus 8 prompts a caller for input; page 1, lines 23-29; page 3, lines 24-26; page 4, line 23 – page 5, line 6);

selectively identifying said responsive signals (response signals from callers are identified as lottery entry data, page 5, lines 6-11, or a control signal "0" to erase the caller's entry, page 6, lines 11-14), said responsive signals including signals indicative of a customer identification number (a secret code attributed to each player can be required to access the computer system; page 6, line 28 – page 7, line 2);

testing at least a portion of said customer identification for approval (participation in the lottery may require a secret code; page 6, line 28 – page 7, line 2);

recording said caller identification signals (the caller's telephone number is stored in memory 9, page 3, lines 26-28, and, if the caller is entitled to participate in the lottery, is later stored in auxiliary memory 10, page 3, line 28 – page 4, line 2; page 5, lines 11-19); and

confirming via the voice generator (data entered by the caller is stored in memory 9 and repeated in spoken form to the caller by converting and confirming apparatus 11; page 4, lines 5-8; page 5, lines 22-26).

DeBruyn differs from claims 22-23, 26 in that it does not provide for the step of transferring calls to at least one live operation station. However, Szlam teaches the desirability of transferring a call to an operator terminal (col. 12, lines 9-66), in which both data entered by the caller (telephone number or account number; col. 13, lines 18-22) and data stored for the

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caller (customer account information previously stored in the mainframe 16; col. 12, lines 39-42) is displayed upon the screen of the operator terminal (col. 13, lines 22-29). It would have been obvious to an artisan of ordinary skill to incorporate such use of an operator terminal, as taught by Szlam, within the method of DeBruyn in order to provide human assistance as well as to collect more detailed information regarding the caller.

DeBruyn further differs from claims 23, 26 in that although it provides for comparing the caller's telephone number with memory 10 to determine whether the caller's telephone number has already been recorded for the current Lotto game (page 5, lines 11-21; page 3, line 28 – page 4, line 5), it does not specify that the caller's telephone number is received as data entered by the caller. However, Szlam teaches the desirability of receiving a caller's telephone number by prompting the caller to key in this telephone number (col. 13, lines 18-20) in the event ANI is not available (col. 13, lines 1-2) such that it would have been obvious to an artisan of ordinary skill to incorporate such prompting and receiving of a telephone number from the caller, as taught by Szlam, within the method of DeBruyn in order to accommodate callers from locations in which ANI is not available.

4. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeBruyn and Szlam, as applied to claims 22-23 above, and further in view of Entenmann et al. (US 4,996,705, hereinafter "Entenmann").

The combination of DeBruyn and Szlam differs from claim 24 in that it does not specify receiving and testing caller credit card number data. Rather, in DeBruyn, the lottery participation charges are billed to the caller's telephone account (page 6, lines 24-27). However,

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Entenmann teaches the well known use of a credit card account to pay for participating in a lottery (col. 2, lines 63-65) such that it would have been obvious to an artisan of ordinary skill to incorporate the use of credit card payment, as taught by Entenmann, within the combination of DeBruyn and Szlam in order to provide a caller with an another payment option.

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeBruyn, Szlam and Entenmann, as applied to claim 24 above, and further in view of Stephenson, Jr. et al. (US 3,727,186, hereinafter "Stephenson").

The combination of DeBruyn, Szlam and Entenmann differs from claim 25 in that although it does teach credit card authorization (Entenmann, col. 2, lines 63-65), it does not specify testing against a negative list of credit card numbers. However, Stephenson teaches that it is old and well known in the credit authorization art to test against a negative list (warning file 30) when determining whether or not a credit card number is authorized (col. 5, lines 22-28; col. 6, lines 30-37) such that it would have been obvious to an artisan of ordinary skill to test against such a negative list, as taught by Stephenson, within the combination of DeBruyn, Szlam and Entenmann so that credit card number can be more quickly verified by checking against a warning file of unauthorized credit card numbers.

6. Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeBruyn and Szlam, as applied to claim 26 above, and further in view of Barger, Jr. et al. (US 4,071,698, hereinafter "Barger").

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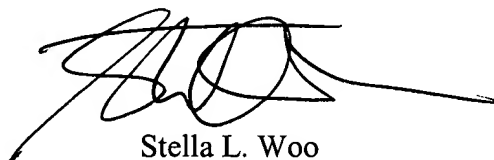
The combination of DeBruyn and Szlam differs from claims 27-29 in that although Szlam teaches the automatic display of caller information on the screen of an operator terminal (col. 13, lines 22-29), it does not specify the display at the attended terminal being automatically caused subsequent to a caller entering an invalid or incorrect account number or a specific code to request an operator. However, in Barger, callers whose credit cannot be validated or those determined to be freeloaders or those who key in a specified code requesting operator assistance are automatically connected with an attended terminal 39 (col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40) such that it would have been obvious to an artisan of ordinary skill to incorporate such automatic transfer and display at the operator terminal, as taught by Barger, within the combination of DeBruyn and Szlam in order to provide human assistance to a caller automatically when it is determined that assistance is needed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Stella L. Woo', with a long horizontal line extending to the right.

Stella L. Woo
Primary Examiner
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